

Governor's Commission on Government Reform & Restructuring

October 4, 2010

1:00 PM

House Room D
General Assembly Building
Richmond, Virginia

Attendees: Fred Malek (Chairman), Delegate Glenn Oder, Delegate Bob Brink, Senator Mary Margaret Whipple, Senator L. Louis Lucas, Senator Mark Obenshain, Senator Ryan McDougle, Secretary Lisa Hicks-Thomas, Paul Fraim, Ron Tillett, Heather Cox, Dubby Wynne, Alex McMurtrie, Bobbie Kilberg, Scott Pattison, Howard Estes, Bill Eggers, Geoff Segal, Alicia Hughes, Marcia Gilliam, Suzy Kelly, Maurice McTigue, Bruce Gemmill, Sandy Liddy Bourne, Jack Rust, Michelle Jenkins (by phone), Bill Leighty, Mike Thompson, Mike Reynold, Matt Bruning, Andrew Lamar

Minutes

Chairman Malek gaveled the meeting to order at 1:03. He provided an overview of the previous work of the Commission and of the meeting's agenda. He noted that the Commission has and will adopt around 80 recommendations that will improve customer service, increase transparency and save money. He noted that there is a tremendous amount of work still to be done by the Commission.

On the motion of Delegate Oder, seconded by Mr. McMurtrie, the minutes from the previous Commission meeting on September 13th were adopted.

Simplification and Operations Committee

Delegate Oder provided an overview of the agenda items his committee is recommending. He read a statement from Speaker Howell in support of the committee's recommendations being presented today.

ABC Privatization Recommendation

- The Governor's Senior Advisor for Policy, Eric Finkbeiner, presented an overview of the staff proposal on ABC privatization as adopted by the committee on September 30th. He began by summarizing the principles the Governor outlined in pursuing privatization. He detailed the proposal's impact on the retail and wholesale side. Deputy Policy Director Melissa Luchau outlined issues dealing with enforcement, current employees and store leases. She also explained the revenue aspects of the plan, including the new transportation funding and impact on General Fund revenues.
- **Comments:** Delegate Brink asked about where the performance based credit would come from. Ms. Luchau noted that it would come out of the amount anticipated for transportation from the license auction. Chairman Malek asked if the \$47 million figure was an annual figure, which Ms. Luchau noted it was. Senator Whipple asked about how that figure compares with total general fund revenues, which Ms. Luchau noted was about \$15 billion annually. Mr. Finkbeiner noted that Mr. McTigue asked if distillers could be a wholesaler or retailer, how will license bidders' eligibility would be determined, what would trigger retail license increases, tradability of licenses. Mr. Finkbeiner noted that the three tier system would be maintained so distillers could not be wholesaler or retailer. He also noted that there would be limits on any single entity to own more than 25% of licenses in their level. He noted that even when increasing to 1,000 outlets, Virginia would still be less than the national average and any expansion would be controlled by the General Assembly. He also noted that the license could be traded or sold subject to approval by the ABC Board. Mr. Rust asked about the subcontracts of licensees. Mr. Finkbeiner noted they would also have to be approved

by ABC but would not have to go through bidding process. Chairman Malek asked about what alternatives were considered to ensure revenue neutrality. Mr. Finkbeiner noted they have previously contemplated optional restaurant convenience fees or higher gallonage fees, but it would raise the price on restaurants and consumers. He noted that proposal currently strikes a good balance and the cost savings measures addressed by the Commission need to be taken into account. Mr. Tillett asked about increased enforcement activity proposal. Mr. Finkbeiner noted that there is a need for additional enforcement resources regardless of privatization. Mr. McMurtrie asked about payment plan security and the possibility of liens. Mr. Finkbeiner noted it was an installment plan that if they are not paid, the license would be revoked and liens are something to consider. Mr. Rust noted that the Virginia Chamber of Commerce endorsed the concept at a meeting this morning and read the statement adopted by the Chamber for the Commission. Delegate Brink noted the difficulty of recouping general fund revenues and the proposal does not make economic sense. Chairman Malek noted the Commission is considering the concept and not the legislative particulars. Senator Whipple noted that the system works well and there needs to be a compelling reason to remove Virginia from it. She noted that compliance rates were better last year at state ABC stores versus private off-premise beer and wine outlets which adds to her concerns about enforcement. Mr. Finkbeiner noted the conflict of current ABC system between being regulator and competitor. Senator Whipple noted that some states are defined as control states are only controlling wholesale and not retail. Mr. McTigue noted that philosophically most agree that government should not be in the business of liquor sales and that should be the foremost point, not revenue impact. Mr. Finkbeiner noted that Virginia loses sales to DC and Maryland, but the proposal uses conservative forecasts and does not include the secondary economic impacts. Mr. Eggers asked about impact on technology on enforcement. Mr. Finkbeiner noted that is certainly something to be discussed in the details of legislation and regulation. Senator Obenshain noted this is a debate about the proper role of government. Ms. Hughes noted her agreement on the philosophical argument for privatization, but asked about ways to mollify concerns raised by opposition. Mr. Finkbeiner noted that is a discussion with the legislators going forward, but he noted the secondary revenues as well as the new transportation revenue that are important points to convey. He also noted there was some initial opposition because the original proposal had too much revenue. Ms. Kelly noted that the private sector cares about the bottom line and the numbers forecast are too conservative. Mr. Estes suggested tax credits for jobs instead of taking out of transportation, encouraged staff to provide localities tools on zoning and noted the resolution requests further input from stakeholders.

➤ Recommendation: Delegate Oder read the resolution adopted by the committee below:

“This Committee recognizes the importance of privatizing certain government functions that can be accomplished by the private sector and free market system more efficiently, effectively and without harm to the public good. Virginia state government should focus on its core responsibilities and selling alcohol is not one of them. This Committee, therefore, endorses ending Virginia’s outdated government monopoly on the sale of distilled spirits in keeping with the concepts recommended by the Governor’s staff.”

“The private sector has demonstrated for over 75 years that it can safely and responsibly conduct the sale of beer and wine. Distribution and consumer purchases of beer and wine at 6,657 retail stores currently licensed by the Commonwealth’s Alcohol and Beverage Control have worked well. This Committee, therefore, also supports privatizing Virginia’s ABC operations and recommends continuing work with stakeholders to develop legislation to accomplish this important government reform to meet the Governor’s objectives of generating money for transportation while maintaining ABC’s role in regulating the health, safety and marketing of distilled spirits.”

- Vote: On the motion of Delegate Oder, seconded by Senator Obenshain, the recommendation was adopted by voice vote with Senators Whipple and Lucas and Delegate Brink voting against the resolution. Chairman Malek asked that staff continue to take concerns in mind moving forward. Mr. Leighty noted that he supports the resolution and said control versus open state status was never an issue considered as a method of preventing alcohol related traffic safety incidents when he served at DMV.

Telework and Alternative Work Schedule Recommendation

- Delegate Oder provided an overview of the presentation by Department of Human Resource Management Sara Wilson from the last meeting. He noted the committee saw this topic as a logical extension of the previous recommendation on the 4 day work week. The recommendation adopted by the committee is to encourage greater use of telework and flexible scheduling for state workers.
- Comments: Mr. McTigue asked about product based payment instead of time based payment. Ms. Wilson noted that this is something that could be studied further. Ms. Kilberg noted that many technology companies have found telework works well and cohesiveness among employees and management has not been an issue. Ms. Wilson noted that was feedback from state employee surveys.
- Recommendation: On the motion of Delegate Oder, seconded by Senator Whipple, the recommendation was adopted unanimously by voice vote.

Business One-Stop

- Delegate Oder provided an overview of the recommendation adopted by the committee.
- Recommendation: On the motion of Delegate Oder, seconded by Senator Whipple, the recommendation was adopted unanimously by voice vote.

Transportation Reforms

- Delegate Oder provided an overview of the transportation reform proposals adopted by the committee. Assistant Secretary of Transportation Matt Strader provided a brief summary on each of the proposals adopted by the committee.
- Comments: Mr. McTigue asked if proposal #1 would be cost neutral. Mr. Strader noted this would simply give the authority. Mr. McTigue noted that proposal #3 is covered in an earlier recommendation adopted by the Customer Service committee. Mr. McTigue asked about eliminating the Department of Rail and Public Transportation and consolidating into the Department of Transportation. Delegate Oder noted this has been discussed previously and the Governor's staff should examine the possibility. Senator McDougle noted that on proposal #7 there are legal issues. He also noted the need to have further discussion on consolidation of DRPT and VDOT. Ms. Bourne asked about applicability on certified mailings for business licensure. Mr. Leighty asked for further study on proposal #7. Ms. Kelly asked on proposal #15 what the local impact would be. Senator Whipple noted that on proposal #1 her concerns have not been addressed since the committee met. Mr. Strader noted that inmate labor is being used on road maintenance and this proposal would give VDOT the authority to work with DOC on how to implement. Ms. Bourne noted the safety concerns on proposal #1 and suggested striking rest areas. Ms. Hughes asked if we could strike private vendors, which Mr. Strader noted would be difficult since all rest areas are operated by the private sector. On proposal #7, Senator McDougle suggested the complexity of the proposal on the legal issues might need to be revised in legislation. On proposal #14, Senator McDougle noted that we should be working to consolidate functions instead of further separating them. Senator Whipple noted that the two were separated to ensure adequate profile. Mr. Pattison asked if there was any cost savings. On proposal #12, Sen. Whipple

noted her wishes to abstain. She noted her desire to be supportive of lower cost improvements, but must keep in mind the impact on wastewater/runoff. Mr. Estes suggested where private road standards are available at local level, allow VDOT to use those local standards.

- Recommendation: On the motion of Delegate Oder, seconded by Ms. Hughes, recommendations #3-6, 8-11 and 15-16 were adopted unanimously by voice vote. On proposal #1, Delegate Oder motioned, Ms. Hughes seconded, and the recommendation was sent back to committee. On proposal #2, Senator Whipple motioned, seconded by Delegate Oder, and the recommendation was adopted unanimously by voice vote. On proposal #7, Delegate Oder motioned, Ms. Gilliam second, and the recommendation was adopted unanimously by voice vote. On proposal #14, Delegate Oder motioned, seconded by Ms. Hughes, and the recommendation was adopted unanimously by voice vote. On proposal #12, Delegate Oder asked that it be referred back to committee.

Customer Service Committee

Amendments to Proposal #4 from Previous Recommendation

“That the Commission recommends to the Governor that Virginia adopts a presumption that all information is public, unless a case exists for security reasons, individual confidentiality reasons or corporate confidentiality reasons that the information should remain confidential.”

- Ms. Cox noted that the committee incorporated feedback from the previous Commission meeting.
- Recommendation: On the motion by Ms. Cox, the recommendation was adopted unanimously by voice vote.

Amendments to Proposal #8 from Previous Recommendation

“That the Commission recommends that the government adopt a purchasing philosophy stating that it will purchase goods and services from the best provider by subjecting more of the government’s purchases to competition. (This philosophy should recognize that there are some functions of government that are essentially governmental in nature and should not be performed in the private sector.)

- To that end, it will develop procedures that will allow multiple choices to be available to purchasers, consequently improving the quality and price of those choices.
- Competition in purchasing is the best mechanism for ascertaining the best value.
- All activities that are not inherently governmental should be subjected to competitive pressure.
- Government providers may participate in competitions for competitively bid services. To do so they must first create a separate profit center for the unit bidding to provide the service.
- Departments should create internal markets that allow departments to bid to provide shared services. (Example: legal services, accounting services, human resource services, payroll services, data entry, data collection, etc.)
- Shared services should be required to operate on a contractual basis.

Explanatory note: This recommendation does not seek to replace existing competitive purchasing processes that work well, but to emphasize that competition is necessary to acquire the best quality, innovation and price for the goods and services available. The recommendation also places emphasis on subjecting those purchasing procedures not currently subjected to competitive pressure to be subjected to such competition.”

- Ms. Cox noted that the committee incorporated feedback from the previous Commission meeting.

- Recommendation: On the motion by Ms. Cox, the recommendation was adopted unanimously by voice vote.

Ms. Cox noted that her committee is examining ideas submitted to the Commission for further review at future committee meetings. She also noted that the committee will further work on customer service plans for agencies.

Chairman Malek asked about recommendations on surplus property. Mr. Tillett noted that the Shared Services Committee had previously adopted a recommendation on that. Secretary Hicks-Thomas noted that the Administration has already disposed of \$17 million of property with another \$13 million ready to be disposed.

Intergovernmental Relations Committee

Mayor Fraim noted that this committee has been working on regional approaches and examining state mandates on localities. He noted the need to have conversation about the proper roles of state and local governments. He asked that the recommendations included in the local mandate paper provided by the Commission on Local Government be adopted in the report of the full Commission.

Local Mandates Review

“The Committee recommends that the Governor’s Office and the Department of Planning and Budget move forward with plans requiring state agencies review of all current mandates to determine if any of those mandates should be suspended or eliminated as a result of state budget reductions.

“The Committee recommends that the Commission on Local Government move forward with a change to the requirements for local mandates which would put the burden on state agencies to justify the continuation of those mandates using a cost benefit analysis and metrics to determine the value relative to the output.

“Other future actions that could be taken to support the committee’s work on mandates:

- ❑ Ask the localities to identify policy areas where mandates are burdensome since it is often the cumulative effect of a group of mandates – as opposed to an individual mandate – that is most problematic for localities.
- ❑ Consider legislation that prohibits state mandates on localities which are not funded by the State.
- ❑ Examine all mandates that fall outside executive branch agencies – begin assessing them. As subject matter expertise is necessary in order to conduct a meaningful assessment of a mandate, it may be plausible for local governments to review and comment at some point in the future on these mandates, but not as an “assessment” as contemplated by statute or EO. It may be necessary to develop legislation in order to achieve compliance from the nonexecutive branch agencies.”

- Comments: Mr. Malek asked that a timeline for implementation be given to the commission. Mr. Bruning noted that these recommendations could be implemented fairly quickly. Mr. Eggers suggested examining Denmark’s approach of allowing localities to challenge mandates and noted he will pass along information. He also asked about recent efforts in other states examining the number of localities and overlapping functions. Mayor Fraim noted that ties in with Mr. Wynne’s examination of regionalism. Mr. Estes asked about regulations being applied one-size-fits-all and possibility of opt-out or appeal process. Ms. Bourne noted that mandates sometimes get altered through regulation from legislative intent. She also noted that technology sometimes makes

mandates obsolete and suggested sunset language on mandates as well as date certain deadline for review and suggested elimination. Mr. Rust asked about why it was limiting it to those impacted by budget reductions and suggested eliminating that phrase. Mayor Fraim agreed.

- Recommendation: On the motion of Mayor Fraim, seconded by Ms. Hughes, the recommendations were adopted unanimously by voice vote.

Regionalism

- Mr. Wynne reminded the commission of the white paper previously adopted at the September meeting. He provided an overview of the previous discussions and the need to validate some of the antidotal evidence of the need for regionalism. He explained the goal of processes to incentivize regional cooperation including four phases including assessment. He recommends tasking the Council on Virginia's Future to undertake the validation study with involvement from stakeholders. He further noted that the next two phases include situational analysis and optionality determinates from a larger group. Those solutions include sustainable platforms and process and incentives and flexibility tied to achievement. The final stage would be the implementation stage which includes metrics. He noted that composition of such a group would be diverse.
- Comments: Mr. Leighty noted that the Planning District Commission Association should be included. Chairman Malek noted that he would like something in writing and to identify some early benchmarks. Mr. Wynne noted that it needs to be done thoughtfully but by the end of this Commission and this Administration there should be progress. Senator Lucas noted her support of public comment to bring up concerns. Senator Whipple asked if the timeframe could be adjusted as she believes it is ambitious.
- Recommendation: On the motion of Mr. Wynne, seconded by Senator Lucas, on the recommendation to authorize phase one of the plan, the recommendation was adopted unanimously by voice vote.

Remarks by Governor McDonnell

The Governor thanked the Chairman and the Commission for their initial work. He recognized that the Commission has exceeded expectations by developing bold, innovative solutions that will make government work more effectively and efficiently for its owners, the citizens of Virginia. He noted the Commission has made sound recommendations like privatizing the state-run liquor monopoly, cataloging the Commonwealth's real property and assets, expanding options for four day, ten hour work weeks for some state agencies and teleworking for other state employees, and improving customer service for Virginians. He noted this is not the end and there is still much work that can be done. The Governor mentioned that he looks forward to future recommendations from this Commission over the next three years.

Operational Review Task Force Update

- Mr. Leighty noted that the Task Force had its first meeting last week with the individual groups identifying total spend, best practices and suggestions for reductions in spends. He noted the groups are composed of state government sponsors, private sector representatives and local government representatives. Mr. Eggers asked to send the groups to the Commission. Mr. Tillett noted that the recommendations will be presented to the Shared Services Committee.

Update on Future Scheduling

- Mr. Reynold noted that the Commission has now adopted about 90 recommendations and work on larger issues going forward. He noted pending discussion on the elimination and consolidation of boards and commissions. He noted that public comment is being taken on the Commission website on potential recommendations. He noted the December 1st end of year report with future reports forthcoming.

Chairman Malek adjourned the meeting at 3:50.